

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

SAMUEL JOHN MAJOR-DAVIS,

Petitioner,

VS.

NATHANIEL QUARTERMAN, DIRECTOR,  
TEXAS DEPARTMENT OF CRIMINAL  
JUSTICE, CORRECTIONAL  
INSTITUTIONS DIVISION,

Defendant.

NO. 4:07-CV-203-A

O R D E R

After having considered the United States Magistrate Judge's findings, conclusions, and recommendation pertaining to the petition for writ of habeas corpus filed by petitioner, Samuel John Major-Davis, under 28 U.S.C. § 2254, petitioner's objections thereto, and pertinent parts of the record, the court has concluded that the findings, conclusions, and recommendation of the Magistrate Judge are correct, and that the petition should be dismissed with prejudice as time-barred.

The Magistrate Judge correctly recites the dates pertinent to the limitations question, and correctly concludes that petitioner's habeas petition was due on or before October 25, 2006, with the consequence that his petition, filed March 26,

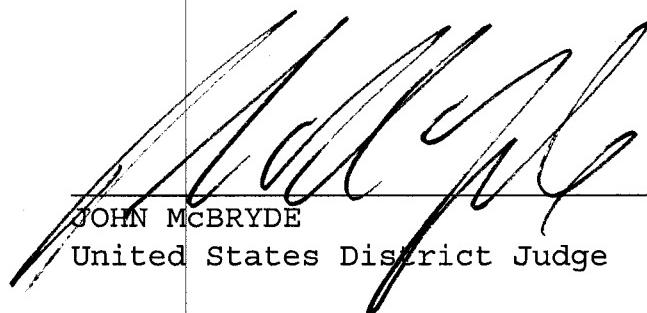
2007, was untimely. The imperfect attempt of petitioner to prosecute a state post-conviction habeas application does not serve to toll the limitations period. See Villegas v. Johnson, 184 F.3d 467, 470 (5th Cir. 1999). See also Artuz v. Bennett, 531 U.S. 4, 8-9 (2000).

Petitioner includes in his objections an objection to the conclusion reached by the Magistrate Judge that petitioner has not demonstrated exceptional circumstances warranting equitable tolling of the statute of limitations. The court agrees with that conclusion.

Therefore, the court adopts the findings, conclusions, and recommendation of the United States Magistrate Judge; and,

The court ORDERS that petitioner's application be, and is hereby, dismissed with prejudice as time-barred.

SIGNED May 8, 2008.



JOHN MCBRYDE  
United States District Judge